

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Seel, et al.	Docket:	14836-48177
Serial No.:	10/520,954	Confirmation No.:	4910
Intl. Filing Date:	10 July 2003	Group Art Unit:	Unassigned
Due Date:	September 28, 2005	Examiner:	Unassigned
Title:	ILLUMINATING DEVICE AND OPTICAL OBJECT-ANALYZING DEVICE		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the papers, as described herein, are being deposited via First Class Mail in an envelope addressed to: Mail Stop PCT, Commissioner of Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on September 23, 2005.

By: 

Tim Tingkang Xia

**RESPONSE TO DECISION REGARDING SUBMISSION**  
**UNDER 37 CFR 1.42 IN THE UNITED STATES**  
**DESIGNATED/ELECTED OFFICE (DO/EO/US)**

Mail Stop PCT  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**\*Customer No. 24728\***

September 23, 2005

Sir:

In response to the Decision Regarding Submission Under 37 CFR 1.42 mailed July 28, 2005

(hereinafter "Decision"), Applicant encloses herewith:

1. Transmittal;
2. Response to the Decision Regarding Submission Under 37 CFR 1.42 including the citizenship, mailing address, and residence information for **both** the deceased inventor and the legal representative;
3. Copy of the Decision Regarding Submission Under 37 CFR 1.42 (3 pages);
4. Combined Declaration and Power of Attorney;
5. Return Postcard.

**REMARKS**

In the Decision, the PCT Petitions Attorney indicated that the 17 June 2005 submission by Applicant under 37 CFR 1.42 was rejected without prejudice and gave Applicant two (2) months from the mail date of the Decision to submit a proper response. The PCT Petitions Attorney further indicated that a "proper response must include an oath or declaration executed on behalf of the deceased inventor by his legal representative and containing all the information required under 37 CFR 1.497, including, the citizenship, residence, and mailing address of both the legal representative and the deceased inventor."

In response, submitted herewith is a fully-executed Combined Declaration and Power of Attorney, which includes the citizenship, residence, and mailing address of both the legal representative and the deceased inventor.

Applicant believes that the submission of these papers complete the filing of all necessary papers and respectfully requests that the referenced application be passed along for examination.

Please send any future correspondence to Mr. Tim Tingkang Xia at the address associated with **Customer Number 24728**.

Respectfully submitted,

MORRIS, MANNING & MARTIN, LLP

September 23, 2005



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28 JUL 2005

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In re Application of:  
SEEL, Matthias, et al.  
U.S. Application No.: 10/520,954  
PCT No.: PCT/EP03/07513  
International Filing Date: 10 July 2003  
Priority Date: 12 July 2002  
Attorney's Docket No.: 14836-48177  
For: ILLUMINATING DEVICE AND  
OPTICAL OBJECT-ANALYZING  
DEVICE

DECISION REGARDING  
SUBMISSION UNDER  
37 CFR 1.42

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AUG 01 2005

MORRIS, MANNING & MARTIN

This communication is issued in response to applicants' submission on 17 June 2005 of a declaration executed on behalf of the deceased inventor, which has been treated as a submission under 37 CFR 1.42.

**BACKGROUND**

On 10 July 2003, applicants filed international application PCT/EP03/07513 that claimed a priority date of 12 July 2002 and designated the United States. On 22 January 2004, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 12 January 2005.

On 10 January 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, an English translation of the international application. The submission did not include payment of the basic national fee, resulting in abandonment of the application with respect to the United States.

On 25 February 2004, applicants filed a petition for revival under 37 CFR 1.137(b) accompanied by payment of the basic national fee.

On 20 May 2005, this Office mailed a decision granting the petition for revival under 37 CFR 1.137(b).

On 25 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration acceptable under 37 CFR 1.497 and additional claims fees were required.

On 17 June 2005, applicants filed a response to the Notification Of Missing Requirements that included payment of the required claims fees and a declaration executed by the surviving inventor and on behalf of deceased inventor Klaus SCHALLER by his legal representative, Ines SCHALLER.

### DISCUSSION

37 CFR 1.42 states in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

37 CFR 1.497(b)(2) states:

If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the declaration must provide the citizenship, mailing address, and residence information for **both** the deceased inventor and the legal representative. Here, the filed declaration does not comply with 37 CFR 1.497(b)(2) in that it does not provide separate citizenship, mailing address, and residence information for the legal representative.

Because the filed declaration does not include all the information required by 37 CFR 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.42 and 37 CFR 1.497.

### CONCLUSION

The 17 June 2005 submission under 37 CFR 1.42 is **REJECTED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date this communication to submit a proper response under 37 CFR 1.42 and 1.497. Failure to file a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

A proper response must include an oath or declaration executed on behalf of the deceased inventor by his legal representative and containing all the information required under 37 CFR 1.497, including, as discussed above, the citizenship, residence, and mailing address of both the legal representative and the deceased inventor.

Please direct further correspondence with respect to this matter to Mail Stop PCT,  
Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,  
Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT  
Legal Administration.



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